



Docket No.: 280420US3X PCT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



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RE: Application Serial No.: 10/559,709
Applicants: Hajime NAKASHIMA, et al.
Filing Date: December 7, 2005
For: CONSTRUCTION MACHINE
Group Art Unit: 3618
Examiner: RESTIFO, J.

SIR:

Attached hereto for filing are the following papers:

Election Response

Copy of Patentability Opinion for PCT Application PCT/JP 04/08680

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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DOCKET NO: 280420US3X PCT



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
HAJIME NAKASHIMA, ET AL. : EXAMINER: RESTIFO, J.
SERIAL NO: 10/559,709 :
FILED: DECEMBER 7, 2005 : GROUP ART UNIT: 3618
FOR: CONSTRUCTION MACHINE :

ELECTION RESPONSE

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the election requirement dated September 25, 2007, Applicants elect species A for prosecution in the application. Claims 1-12 correspond to the claimed species.

This election is being made with traverse. The present application is the national stage of PCT application PCT/JP 04/08680, filed on June 15, 2004. In the case of such a national stage of a PCT application, the PCT rules regarding unity of invention are controlling. See MPEP §1850 ("therefore...during the national stage as a designated or a elected office under 35 U.S.C. §371, PCT rule 13.1 and 13.2 will be followed when considering unity of invention of claims of different categories without regard to the practice in national applications filed under 35 U.S.C. §111").

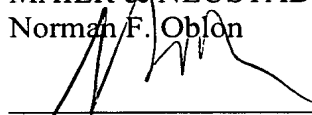
The Examiner's attention is respectfully directed to the patentability opinion for the PCT application for which the present application is the national stage (copy attached). As can be seen, Box "IV" indicating lack of unity of invention has not been checked. Thus there

Application No. 10/559,709
Reply to Office Action of

is no lack of unity invention under the controlling PCT rules, and so a restriction requirement based on the U.S. rules regarding independent species is improper.

Respectfully submitted,

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